

# DEVELOPMENT CODE

---

## **Section 151.22.029**

### **FH – Flood Hazard Overlay District**

#### A. Statutory Authorization, Findings of Fact, Purpose and Methods

Statutory Authorization. The Legislature of the State of Arizona has in ARS §48-3610 enabled the City of Sierra Vista to adopt regulations in conformance with ARS §48-3609 designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of Sierra Vista, Arizona, does ordain as follows:

##### 1. Findings of Fact.

- a. The flood hazard areas of the City of Sierra Vista are subject to periodic inundation by floodwaters. This may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- b. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately flood proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

##### 2. Statement of Purpose. A It is the purpose of this Flood Hazard (FH) overlay district, to protect the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- a. To protect human life and health;
- b. To minimize expenditure of public money for costly flood control projects;
- c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d. To minimize prolonged business interruptions;
- e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, and streets and bridges located in areas of special flood hazard;
- f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

## DEVELOPMENT CODE

---

- g. To notify potential buyers that property is in an area of special flood hazard;
  - h. To notify those who occupy the areas of special flood hazard assume responsibility for their actions;
  - i. To participate in and maintain eligibility for disaster relief;
  - j. To prevent unwise encroachment and building development within areas subject to flooding.
3. Methods of Reducing Flood Losses. In order to accomplish its purposes, this ordinance includes methods and provisions for:
- a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
  - b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  - c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
  - d. Controlling filling, grading, dredging, and other development which may increase flood damage; and
  - e. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

## DEVELOPMENT CODE

---

### B. Definitions.

Unless specifically defined below, words or phrases in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application:

1. *Accessory structure*: A structure that is on the same parcel of property as a principal structure, the use of which is incidental to the use of the principal structure.
2. *Appeal*. A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.
3. *Area of shallow flooding*. A designated Zone AO, AH, AR/AO or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
4. *Base flood*. A flood which has a one percent chance of being equaled or exceeded in any given year.
5. *Base flood elevation (BFE)*. The computed elevation to which floodwater is anticipated to rise during the base flood.
6. *Basement*. Any area of the building having its floor sub-grade - i.e., below ground level - on all sides.
7. *Building*. See "Structure."
8. *Community*. Any state, area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or authorized native organization, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.
9. *Development*. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
10. *Elevation Certificate*. An administrative tool of the National Flood Insurance Program (NFIP) that is used to provide elevation information necessary to ensure compliance with community floodplain management ordinances, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).
11. *Encroachment*. The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow

## DEVELOPMENT CODE

---

capacity of a floodplain.

12. *Erosion*. The process of the gradual wearing away of landmasses. This peril is not, per se, covered under the National Flood Insurance Program.
13. *Flood or flooding*. A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of floodwaters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and/or (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.
14. *Flood Insurance Rate Map (FIRM)*. The official map of a community, on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas (SFHAs) and the risk premium zones applicable to the community.
15. *Flood Insurance Study (FIS)*. The official report provided by the Federal Emergency Management Agency that includes flood profiles, Flood Insurance Rate Maps, and the water surface elevation of the base flood.
16. *Floodplain or flood-prone area*. Any land area susceptible to being inundated by water from any source. See "Flood or flooding."
17. *Floodplain Administrator*. The Director of Community Development of the City of Sierra Vista, who is authorized by the Floodplain Board to administer the provisions of Section 151.22.029 of this Code.
18. *Floodplain Board*. The City Council of the City of Sierra Vista at such times they are engaged in the enforcement of Section 151.22.029 of this Code.
19. *Floodplain management*. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
20. *Floodplain management regulations*. The ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.
21. *Floodproofing*. Any combination of structural and nonstructural additions, changes, or adjustments to nonresidential structures which reduce or eliminate risk of flood damage to real

## DEVELOPMENT CODE

---

estate or improved real property, water and sanitary facilities, structures, and their contents by means other than elevation.

22. *Flood-Related Erosion.* The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.
23. *Floodway.* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."
24. *Functionally dependent use.* A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.
25. *Governing body.* The local governing unit, i.e. county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.
26. *Hardship.* As related to Section 151.22.029(F) of this ordinance, meaning the exceptional hardship that would result from a failure to grant the requested variance. The City Council of the City of Sierra Vista requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.
27. *Highest adjacent grade.* The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
28. *Historic structure.* Any structure that is:
  - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily

## DEVELOPMENT CODE

---

- determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
  - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - 1) By an approved state program as determined by the Secretary of the Interior or
    - 2) Directly by the Secretary of the Interior in states without approved programs.
29. *Lowest floor.* The lowest floor of the lowest enclosed area, including the basement. See "Basement." An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
30. *Manufactured home.* A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
31. *Manufactured Home Park or Subdivision.* A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
32. *Market value.* Replacement cost of a structure less depreciation since construction.
33. *Mean sea level.* For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.
34. *New construction.* For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
35. *Obstruction.* Including, but not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the

## DEVELOPMENT CODE

---

flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

36. *One-hundred-year flood or 100-year flood.* A common name for the flood having a one percent chance of being equaled or exceeded in any given year. See "Base flood."
37. *Person.* An individual or the individual's agent, a firm, partnership, association or corporation, or an agent of the aforementioned groups, or this state or its agencies or political subdivisions.
38. *Program.* The National Flood Insurance authorized by 42 U.S.C. 4001-4128.
39. *Program Deficiency.* A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the NFIP standards.
40. *Recreational vehicle.* A vehicle which is:
  - a. Built on a single chassis;
  - b. 400 square feet or less when measured at the largest horizontal projection;
  - c. Designed to be self-propelled or permanently towable by a light-duty truck; and
  - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
41. *Regulatory Flood Elevation (RFE).* An elevation one foot above the Base Flood Elevation.
42. *Regulatory floodway.* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
43. *Riverine.* Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
44. *Sheet flow area.* See "Area of shallow flooding."
45. *Special Flood Hazard Area (SFHA).* An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on a Flood Insurance Rate Map as Zone A, AO, AE, AH or A99.
46. *Start of construction.* Includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of

## DEVELOPMENT CODE

---

permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

47. *Structure.* A walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.
48. *Substantial damage.* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
49. *Substantial improvement.* Any reconstruction, rehabilitation, addition, or other improvement to a structure, the total cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:
  - a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
  - b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."
50. *Variance.* A grant of relief from the requirements of this ordinance which permits construction or other uses of property in a manner that would otherwise be prohibited by this ordinance.
51. *Violation.* The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.
52. *Water surface elevation.* The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
53. *Watercourse.* A lake, river, creek, stream, wash, arroyo, channel or other topographic feature

## DEVELOPMENT CODE

---

on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

54. *Zone A*. No Base Flood Elevations determined.
55. *Zone AE*. Base Flood Elevations determined.
56. *Zone AH*. Flood depths of 1 to 3 feet (usually areas of ponding); Base Flood Elevations determined.
57. *Zone AO*. Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.
58. *Zone AR*. Special Flood Hazard Area formerly protected from the 1% annual chance flood by a flood control system that was subsequently decertified. Zone AR indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood.
59. *Zone A99*. Area to be protected from 1% annual chance flood by a Federal flood protection system under construction; no Base Flood Elevations determined.
60. *Zone D*. Areas in which flood hazards are undetermined, but possible.
61. *Zone X* (unshaded). Areas determined to be outside the 0.2% annual chance floodplain.
62. *Zone X* (shaded). Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.

### C. General Provisions

1. Lands to Which This Ordinance Applies. This ordinance shall apply to all areas of special flood hazards within the corporate limits of Sierra Vista.
2. Basis for Establishing the Areas of Special Flood Hazard. The area of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering report entitled "The Flood Insurance Study" for Cochise County Arizona and Incorporated Areas" dated August 28, 2008, with accompanying Flood Insurance Rate Maps (FIRMs), dated August 28, 2008, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the Floodplain Board (Board) by the Floodplain Administrator. The Floodplain Board, within its area of jurisdiction, shall delineate (or may, by rule, require

## DEVELOPMENT CODE

---

developers of land to delineate) where development is ongoing or imminent, and thereafter as development becomes imminent, floodplains consistent with the criteria developed by the FEMA and the Arizona Director of Water Resources. The Flood Insurance Study, and FIRMs, are on file at the City of Sierra Vista City Hall, Department of Community Development, Sierra Vista, AZ.

3. Compliance. All development of land, construction of residential, commercial, or industrial structures, or future development within delineated floodplain areas is subject to the terms of this ordinance as well as other applicable regulations.
4. Abrogation and Greater Restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
5. Interpretation. In the interpretation and application of this Code, all provisions shall be:
  - a. Considered as minimum requirements;
  - b. Liberally construed in favor of the governing body; and,
  - c. Deemed neither to limit nor repeal any other powers granted under state statutes.
6. Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Sierra Vista, any officer or employee thereof, the State of Arizona, the FIA, or FEMA, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
7. Statutory Exceptions.
  - a. In accordance with ARS §48-3609.H, unless expressly provided, this and any regulation adopted pursuant to this Article do not affect:
    - (1) Existing legal uses of property or the right to continuation of such legal use. However, if a nonconforming use of land or a building or structure is discontinued for 12 months or destroyed to the extent of 50 percent of its value, as determined by a competent

## DEVELOPMENT CODE

---

appraiser, any further use shall comply with this Article and other regulations of the City of Sierra Vista.

- (2) Reasonable repair or alteration of property for the purposes for which the property was legally used on May 12, 1984, or any regulations affecting such property takes effect, except that any alteration, addition or repair to a nonconforming building or structure which would result in increasing its flood damage potential by 50 percent or more shall be either flood proofed or elevated to or above the regulatory flood elevation.
  - (3) Reasonable repair of structures constructed with the written authorization required by ARS §48-3613.
  - (4) Facilities constructed or installed pursuant to a certificate of environmental compatibility issued pursuant to ARS Title 40, Chapter 2, Article 6.2.
- b. Before the following types of construction authorized by A.R.S. 48.3613(B) begin, the responsible person must submit plans for the construction to the Floodplain Board for review and comment pursuant to A.R.S. 48.3613(C):
- (1) The construction of bridges, culverts, dikes, and other structures necessary to the construction of public highways, roads, and streets intersecting or crossing a watercourse.
  - (2) The construction of storage dams for watering livestock or wildlife, structures on banks of a watercourse to prevent erosion of or damage to adjoining land if the structure will not divert, retard, or obstruct the natural channel of the watercourse or dams for the conservation of floodwaters as permitted by ARS Title 45, Chapter 6.
  - (3) Construction of tailing dams and waste disposal areas for use in connection with mining and metallurgical operations. This paragraph does not exempt those sand and gravel operations which will divert, retard, or obstruct the flow of waters in any watercourse from complying with and acquiring authorization from the board pursuant to regulations adopted by the board under this Article.
  - (4) Other construction if it is determined by the Board that written authorization is unnecessary.
  - (5) Any flood control district, county, city, town, or other political subdivision from exercising powers granted to it under ARS Title 48, Chapter 21, Article 1.

## DEVELOPMENT CODE

---

- (6) The construction of streams, waterways, lakes, and other auxiliary facilities in conjunction with development of public parks and recreation facilities by a public agency or political subdivision.
  - (7) The construction and erection of poles, towers, foundations, support structures, guy wires, and other facilities related to power transmission as constructed by any utility whether a public service corporation or a political subdivision.
- c. In addition to other penalties or remedies otherwise provided by law, this state, a political subdivision or a person who may be damaged or has been damaged as a result of the unauthorized diversion, retardation, or obstruction of a watercourse has the right to commence, maintain, and prosecute any appropriate action or pursue any remedy to enjoin, abate, or otherwise prevent any person from violating or continuing to violate this Section or regulations adopted pursuant to A.R.S. Title 48, Chapter 21, Article I. If a person is found to be in violation of this Section, the court shall require the violator to either comply with this Section if authorized by the Floodplain Board or remove the obstruction and restore the watercourse to its original state. The court may also award such monetary damages as are appropriate to the injured parties resulting from the violation including reasonable costs and attorney fees.
- d. This section shall not exempt any use which diverts, retards, or obstructs the flow of water and creates a danger or hazard to life or property in the City.
8. Declaration of Public Nuisance. All development located or maintained within any area of special flood hazard after August 8, 1973, in violation of this ordinance is a public nuisance per se and may be abated, prevented, or restrained by action of this political subdivision.
9. Abatement of Violations. Within 30 days of discovery of a violation of this Code, the Floodplain Administrator shall submit a report to the Floodplain Board which shall include all information available to the Floodplain Administrator which is pertinent to said violation. Within 30 days of receipt of this report, the Floodplain Board shall either:
- a. Take any necessary action to effect the abatement of such violation; or
  - b. Issue a variance to this ordinance in accordance with the provisions of *Section 151.22.029.F* herein; or
  - c. Order the owner of the property upon which the violation exists, to provide whatever additional information may be required for their determination. Such information must be provided to the Floodplain Administrator within 30 days of such order, and he shall submit an amended report to the Floodplain Board within 20 days. At their next regularly

## DEVELOPMENT CODE

---

scheduled public meeting, the Floodplain Board shall either order the abatement of said violation or they shall grant a variance in accordance with the provisions of *Section 151.22.029.F* herein; or

- d. Submit to the FEMA a declaration for denial of insurance, stating that the property is in violation of a cited state or local law, regulation or ordinance, pursuant to section 1316 of the National Flood Insurance Act of 1968 as amended.

### 10. Unlawful Acts.

- a. It is unlawful for any person to engage in any development or to divert, retard, or obstruct the flow of waters in any watercourse if it creates a hazard to life or property without securing the written authorization required by A.R.S. 48.3613. Where the watercourse is a delineated floodplain, it is unlawful to engage in any development affecting the flow of waters without securing written authorization required by A.R.S. 48.3613.
- b. Any person found guilty of violating the provisions of this ordinance shall be guilty of a class 2 misdemeanor. Each day that a violation continues shall be a separate offense punishable as herein above described.

11. Severability. This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

### D. Administration

1. Establishment of Floodplain Use Permit. A Floodplain Use Permit shall be obtained before construction or development, including placement of manufactured homes, begins within any area of special flood hazard established in *Section 151.22.029.C.2.*

From and after May 12, 1984, it shall be unlawful to cause or allow any construction / development, including placement of prefabricated buildings or manufactured homes, to occur on any land within the area of special flood hazard, without first applying for and obtaining an Area of Special Flood Hazard Permit from the Floodplain Administrator, and thereafter complying with each and every written term of the permit. However, no such floodplain use permit shall be required for any repairs or alterations for which the value of the materials and labor thereon does not exceed \$500. For the purpose of determining the value of any such repairs or alterations, the normal retail value of materials and the reasonable value of the labor performed shall be used. Even though no floodplain use permit is required, all other provisions of this Code shall be observed in the performance of said repairs or alterations. This paragraph

## DEVELOPMENT CODE

---

shall not apply to any effort to repair or alter property piecemeal for the purpose of avoiding applying for a permit when the cost of said work is in excess of \$500.

Application for a Floodplain Use Permit shall be made on forms furnished by the City and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- a. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; in Zone AO, elevation of existing highest adjacent natural grade and proposed elevation of lowest floor of all structures.
  - b. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed;
  - c. Certification by a registered professional engineer or architect licensed in the State of Arizona that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in *Section 151.22.029. E.2.c.3*;
  - d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
  - e. Base flood elevation data for subdivision proposals or other development greater than 50 lots or 5 acres, whichever is the lesser.
2. Designation of the Floodplain Administrator. The Director of Community Development is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions.
3. Duties and Responsibilities of the Floodplain Administrator. Duties of the Floodplain Administrator shall include, but not be limited to:
- a. Review all development permits to determine that:
    - (1) The permit requirements of this ordinance have been satisfied;
    - (2) All other required state and federal permits have been obtained;
    - (3) The site is reasonably safe from flooding;

## DEVELOPMENT CODE

---

- (4) The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this ordinance, "adversely affects" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will increase the water surface elevation of the base flood more than 1 foot at any point.
  - (5) Improvements and/or damages to existing structures to determine if the application of the substantial improvement rules apply, including establishing a definition of market value determination and verifying the estimated improvement and/or repair costs are less than 50% of the market value of the structure.
- b. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with *Section 151.22.029.C.2*, the Floodplain Administrator shall obtain, review, and reasonably use any base flood elevation data available from a federal, state, or other source, in order to administer *Section 151.22.029.E*. Any such information shall be consistent with the requirements of the FEMA and the Arizona Director of Water Resources and shall be submitted to the Board for adoption.
  - c. Delineate, or by rule, require developers of land to delineate for areas where development is ongoing or imminent, and thereafter as development becomes imminent, floodplains consistent with the criteria developed by the Arizona Director of Water Resources.
  - d. Obtain and maintain for public inspection and make available as needed for Flood Insurance Policies or effecting Increased Cost of Construction Coverage for repetitive loss structures:
    - (1) The certified regulatory flood elevation required in *Section 151.22.029.E.2.c.1; c.2; and Section 151.22.029.E.11*;
    - (2) The Zone AO certification required in *Section 151.22.029.E.2.c.1*;
    - (3) The floodproofing certification required in *Section 151.22.029E.2.c.3*;
    - (4) The certified opening elevation required in *Section E.2.c.4*;
    - (5) Certification of elevation for subdivisions required in *Section 151.22.029.E.2.c.6*;
    - (6) Certification for floodway encroachments required in *Section 151.22.029.E.2.c.13*;
    - (7) Records of all variance actions, including justifications for their issuance;

## DEVELOPMENT CODE

---

- (8) Permit records for repair of flood-related damage to structures on a cumulative basis over the life of the structure and all improvement calculations.
- e. Whenever a watercourse is to be altered or relocated:
    - (1) Notify adjacent communities and the Arizona Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the FEMA through appropriate notification means;
    - (2) Require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.
  - f. As soon as practicable, but no later than six months after the date information becomes available regarding physical alterations affecting flooding conditions resulting in potential changes to the Base Flood Elevations, the Flood Plain Administrator shall notify FEMA of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations Section 65.3.
  - g. Within 120 days after completion of construction of any flood control protective works which changes the rate of flow during the flood or the configuration of the floodplain upstream or downstream from or adjacent to the project, the person or agency responsible for installation of the project shall provide to the governing bodies of all jurisdictions affected by the project a new delineation of all floodplains affected by the project. The new delineation shall be done according to the criteria adopted by the Arizona Director of Water Resources.
  - h. Advise the Flood Control District of Cochise County and any adjunct jurisdiction having responsibility for floodplain management in writing and provide a copy of development plan of all applications for floodplain use permits or variances to develop land in a floodplain or floodway within one mile of the corporate limits of the City of Sierra Vista. Also, advise the Flood Control District of Cochise County in writing and provide a copy of any development plan of any major development proposed within a floodplain or floodway which could affect floodplains, floodways or watercourses within the District's area of jurisdiction. Written notice and a copy of the plan of development shall be sent to the Flood Control District of Cochise County no later than three working days after having been received by the City of Sierra Vista.
  - i. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the

## DEVELOPMENT CODE

---

boundary shall be given a reasonable opportunity to appeal the interpretation as provided in *Section 151.22.029.F*.

- j. Take actions on violations of this ordinance as required in *Section C.9* herein.
  - k. Notify the FEMA and the Arizona Division of Emergency Management (ADEM) of acquisition by means of annexation, incorporation, or otherwise, of additional areas of jurisdiction.
4. Denial of Permit. No permit shall be issued for any development which is not in conformance with this ordinance or any other provision of law relating to such development. A floodplain use permit may be denied if the proposed development constitutes a danger or hazard to life or property. In making such determination, the Floodplain Administrator may consider the following factors:
- a. The danger to life and property due to increased flood heights, velocities, or redirection of flow caused by the development.
  - b. The danger that materials may be swept on to other lands or down stream to the injury of others.
  - c. The proposed water supply and sanitation systems of any development and the ability of these systems to prevent disease, contamination, and unsanitary conditions if they should become flooded.
  - d. The susceptibility of the proposed development and/or its contents to flood damage and the effect of such damage on the individual owners.
  - e. The availability of alternative locations on the same property not subject to flooding for the proposed use.
  - f. The compatibility of the proposed use with existing floodplain use and with floodplain management programs anticipated in the foreseeable future.
  - g. The relationship of the proposed use to any comprehensive plan and floodplain management program for the area.
  - h. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - i. Such other factors which are relevant to the purposes of this section.

## DEVELOPMENT CODE

---

5. Conditions. Any floodplain use permit may be subject to conditions or restrictions designed to reduce or eliminate the potential danger or hazard to life or property resulting from development within floodplain areas. The applicant may be required to execute deed restrictions running with the land or be required to post performance bonds, assurances or such other security as may be appropriate and necessary to assure the performance of the conditions or restrictions that may be imposed. The applicant shall be required and responsible to apply for and obtain all applicable State and Federal permits required of development within the floodplain.

Flood proofing measures such as the following which shall be designed to be consistent with the Regulatory Base Flood Elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the Base Flood. In order to maintain records of elevation and flood proofing levels for new construction and substantial improvements, the Floodplain Administrator may require that the applicant submit a plan or document certified by a State of Arizona registered civil engineer that the floodproofing measures are consistent with the Regulatory Flood Elevation and associated flood factors for the particular area. Examples of floodproofing measures that may be required include, but are not limited to, are:

- a. Anchorage to resist flotation and lateral movement.
- b. Installation of watertight doors, bulkheads, and shutters.
- c. Reinforcement of walls to resist water pressures.
- d. Use of paints, membranes, or mortars to reduce seepage of water through walls.
- e. Addition of mass or weight to structures to resist flotation.
- f. Installation of pumps to lower water levels in structures.
- g. Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters.
- h. Pumping facilities for subsurface external foundation wall and basement floor pressures.
- i. Construction designed to resist rupture or collapse caused by water pressure or floating debris.
- j. Cut-off valves on sewer lines or the elimination of gravity flow basement drains.
- k. Elevation of structures or uses.

## DEVELOPMENT CODE

---

- l. Bank protection or armor plating on any proposed fill.
- m. Use of flood resistant materials and flood resistant utility equipment.

### DE. Provisions for Flood Hazard Reduction.

The Floodplain Administrator shall review permits for all proposed construction and development in an area of special flood hazards including floodway fringe areas. No development, storage of materials or equipment, or other uses shall be permitted which, acting alone or in combination with existing or future uses, create a danger or hazard to life or property. All construction methods used must be demonstrated to minimize potential flood damage.

#### 1. Fill.

- a. Any fill proposed to be deposited in special flood hazard areas, including floodway fringe areas, must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
- b. Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover, bulkheading, or other approved methods.
- c. Such fill shall not adversely affect the groundwater recharge conditions in the subject area.

#### 2. Standards of Construction. In all areas of special flood hazards the following standards are required:

##### a. Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

- (2) All manufactured homes shall meet the anchoring standards of *Section 151.22.029.E.11.b.*

##### b. Construction Materials and Methods

## DEVELOPMENT CODE

---

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) All new construction, substantial improvement and other proposed new development shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (4) Require within Zones AH or AO that adequate drainage paths around structures on slopes guide flood waters around and away from proposed or existing structures.

### c. Elevation and Floodproofing

- (1) Residential construction, new or substantial improvement, shall have the lowest floor, including basement, elevated to or above the regulatory flood elevation, provided, however, new construction or substantial improvement of any structure in Zone AO shall have the lowest floor, including basement, higher than the adjacent grade at least one foot higher than the depth number on the FIRM, or at least two feet if no depth number is specified.
- (2) Upon completion of the structure, certification by a registered professional engineer or surveyor that the elevation requirements of the lowest floor, including basement of this section have been satisfied shall be provided to the Floodplain Administrator for verification.
- (3) Nonresidential construction shall either be elevated in conformance with *Section 151.22.029. E.2.c.1*, or together with attendant utility and sanitary facilities:
  - (a) Be floodproofed so that below the regulatory flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - (c) Upon completion of the structure, certification by a registered professional engineer or surveyor that the elevation requirements of the lowest floor, including basement, of this section have been satisfied shall be provided to the Floodplain Administrator

## DEVELOPMENT CODE

---

for verification; or certification by a registered professional engineer or architect that the floodproofing standards of this section are satisfied shall be provided to the Floodplain Administrator for verification.

- (4) Require, for all new construction and substantial improvements of non-residential structures, that fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must meet or exceed the following minimum criteria:
  - (a) A minimum of two openings on different sides of each enclosed area that have a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (b) The bottom of all openings shall be no higher than 1 foot above grade.
  - (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. Alternatively, an engineer or architect can design and certify engineered openings.
- (5) Manufactured homes shall meet the standards in *Section 151.22.029.E.11*.
- (6) If fill is used to elevate any structure, the minimum elevation of the fill shall be at or above the Base Flood Elevation and shall extend at such elevation for a distance of at least 25 feet beyond the outside limit of the structure.

### 3. Excavations, Including Sand and Gravel Operations.

- a. Extraction of sand, gravel, and other materials is allowed within the floodplain fringe provided that excavations are not so located nor of such depth, or width, or length, or combination of depth-width-length as to present a hazard to structures (including, but not limited to, roads, bridges, culverts, and utilities), to banks of watercourses, or other property or which adversely affect groundwater recharge.
- b. There shall be no stockpiling of material or tailings that may obstruct, divert, or retard the flow of floodwaters.
- c. In addition to those conditions provided for elsewhere, Floodplain Use Permits for excavations may impose conditions regarding the area and location in which excavations

## DEVELOPMENT CODE

---

are allowed the maximum amount of material to be excavated and other reasonable restraints on the methods of operation including time restraints.

4. Standards for Storage of Materials and Equipment.

- a. The storage or processing of materials that are, in time of flooding, buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
- b. Storage of other material or equipment may be allowed if not subject to major damage by floods, and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

5. Standards for Utilities.

- a. All new or replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.
- b. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- c. Waste disposal systems shall not be installed wholly or partially in a regulatory floodway.

6. Standards for Subdivisions. Land physically unsuitable for subdivision because of severe flooding, drainage, or erosion problems endangering life or property, shall not be subdivided unless it can be developed in such a way so as to alleviate those problems.

- a. Delineation of areas subject to flooding on plats and development plans.
  - (1) All preliminary plats and development plans submitted shall show location, by survey or photographic methods, of streams watercourses, canals, irrigation laterals, private ditches, culverts, lakes and other water features, including those areas subject to sheet flooding. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
  - (2) All preliminary plats and development plans shall show proposed improvements for areas which are subject to flooding, including a description and location of all facilities proposed to be used to alleviate flooding or drainage problems, both on the proposed subdivision or development, and downstream and upstream of any watercourse affected by the subdivision or development, whether they are within or outside the boundaries of the subdivision.

## DEVELOPMENT CODE

---

- b. All preliminary subdivision proposals shall identify the special flood hazard area and the elevation of the base flood.
  - c. All final plats and development plans shall provide limits of the 100-year floodplain and the floodway delineated in a surveyable manner. All final subdivision plans will provide the elevation(s) of proposed structure(s) and pads. If the site is filled above the base flood, the final lowest floor and pad elevation shall be certified by a State of Arizona registered professional engineer or surveyor and provided to the Floodplain Administrator.
  - d. All subdivision proposals shall be consistent with the need to minimize flood damage.
  - e. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
  - f. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards and minimize flood damage.
7. Building Sites. Land which contains area within a floodplain shall not be platted for residential occupancy or building sites unless each lot contains a building site, either natural or man-made, which is not subject to flooding by the Base Flood.
- a. In areas subject to flooding where no fill is proposed to be used, the building line shall be located no closer to the floodplain than the edge of the area subject to flooding by the Base Flood.
8. Setback from Channels. Along reaches of streams or water courses where hazards from eroding banks and/or channel meandering are considered by the Floodplain Administrator to be severe, special engineering studies shall be made by the property owner or developer and requirements for setback from banks of streams or water courses and/or other protection measure shall be established in accordance with findings that are concurred with by the Floodplain Administrator.
9. Right-of-Way for Drainage. Whenever any stream, watercourse or major watercourse, or major surface drainage course is located in the area being subdivided, right-of-way encompassing each side of the stream, watercourse, or drainage course, and the bed and banks of the stream, watercourse or drainage course shall be provided for the purpose of widening, deepening, aligning, improving, or protecting the stream or water course or for allowing for the natural meander of the stream or water course as may be reasonably expected, or for all of these to an extent determined by the Floodplain Administrator.

## DEVELOPMENT CODE

---

10. Detention/Retention Systems. When deemed necessary by the Floodplain Administrator, flood detention/retention system shall be employed in lieu of or in combination with structural flood control measures to reduce flooding potential or restrict it to a level no greater than pre-platting and/or pre-development conditions.
11. Standards for Manufactured Homes and Manufactured Home Parks and Subdivisions. All manufactured homes that are placed or substantially improved shall:
  - a. Be elevated so that the bottom of the structural frame or the lowest point of any attached appliances, whichever is lower, is at or above the regulatory flood elevation; and
  - b. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and Local anchoring requirements for resisting wind forces.

## DEVELOPMENT CODE

---

12. Standards for Recreational Vehicles. All recreational vehicles placed on site will either:
- a. Be on site for fewer than 180 consecutive days, and be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, or
  - b. Meet the permit requirements of *Section 151.22.029.D* of this ordinance and the elevation and anchoring requirements for manufactured homes in *Section 151.22.029.E.11*.
13. Floodways. Located within areas of special flood hazard established in *Section 151.22.029.BC.2* are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
- a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a State of Arizona registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
  - b. If *Section 151.22.029.E.13.a* is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of *Section 151.22.029.E*.
  - c. Except as provided for in this section, no other use shall be allowed in any floodway. The following open space uses shall be permitted within the floodway to the extent that they are not prohibited by any provision of this section or any other ordinance, law, or regulation and provided they do not require structures, fill, excavations, or the storage of materials or equipment:
    - (1) Agricultural uses, including general farming, pasture, grazing outdoor plant nurseries, horticulture, viticulture, and sod farming.
    - (2) Private and public recreational uses, including golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, parks, wildlife and nature preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

## DEVELOPMENT CODE

---

### 14. Flood-Related Erosion-Prone Area.

- a. The Floodplain Administrator shall require permits for proposed construction and other development within all flood-related erosion-prone areas as known to the community.
- b. Permit applications shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard.
- c. If a proposed development is found to be in the path of flood-related erosion or would increase the erosion hazard, such improvements shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.

### 15. Detention/Retention Systems. Drainage basins unsuitable for added development because of the high probability of increased flooding or flooding of existing improvements or properties not previously flooded, may be developed further only upon the incorporation of adequate detention/retention systems as reviewed and approved by the Floodplain Administrator. These systems shall be incorporated into any and all future basin development proposals. For the purpose of this provision, drainage basins shall refer to tributary basins to any major watercourse for which the base discharge and its associated floodplain have been established. In addition to this provision, the following items shall be considered:

- a. If a drainage basin is determined to be a "balanced" basin, detention or retention systems shall be employed. The purpose of such systems in "balanced" basins will be limiting the flood peak discharges from the site to values no greater than pre-developed conditions. A "balanced" basin is one which has the potential for a severe increase in flood hazards as a result of increased development within the basin.
- b. If a drainage basin is determined to be a "critical" basin, detention or retention systems shall be employed. The purpose of such systems in a "critical" basin shall be to reduce the potential flood hazard through the detention or retention of storm runoff in fair and equitably apportioned increments. A "critical" basin is one which already contains severe flood problems related to existing runoff potential.

The design of a detention or retention system, as reviewed and approved by the Floodplain Administrator shall include consideration of the degree of existing development within the basin and the capacity of the downstream drainage facilities. All flood control measures will be appropriate for the downstream conditions and will terminate at an equally appropriate downstream release point. The detention/retention systems will be designed with strict conformance to the public's health, safety, and welfare. The effects of recharging storm runoff and possible pollution of the groundwater shall be evaluated for all systems

## DEVELOPMENT CODE

---

employing infiltration systems, such as dry wells, in order to prevent contamination of the ground water aquifer.

Structural flood control measures may be used in conjunction with or in place of a detention/retention system if it can be clearly demonstrated that such measures shall accomplish, with an equal or greater degree of success, the function of such a system. Appropriate structural flood control measures, such as channelization to a logical conclusion downstream of the proposed development and/or improvements to existing off-site flood control systems within the affected drainage or stream reach, shall be completed in accordance with plans reviewed and approved by the Floodplain Administrator.

16. Appeals. Any property owner wishing to appeal a decision concerning the interpretation or administration of this section shall first appeal in writing to the Floodplain Administrator. The Floodplain Administrator may hold hearings and request such additional information as he or she deems necessary in order to render his or her decision. Said decision shall be stated in writing and mailed to the property owner at the address listed on his or her appeal.

Any property owner aggrieved by the decision of the Floodplain Administrator may appeal to the Floodplain Board within 30 days of the date written notice of the decision of the Floodplain Administrator is mailed to the property owner.

Upon receipt of the appeal, in proper form, the Floodplain Board shall hold a public hearing upon the appeal not more than 60 days nor less than 30 days after the filing. The appeal shall contain a detailed explanation of all matters in dispute, and the Board may require the submission of such additional information as it deems necessary.

The Board shall render its decision within 30 days of the close of the hearing.

### F. Variance Procedure.

1. Nature of Variances. The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the City of Sierra Vista to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below the regulatory

## DEVELOPMENT CODE

---

flood elevation are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

### 2. Appeal Board.

- a. The Board of the City of Sierra Vista shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- b. The Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- c. In passing upon such applications, the Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
  - (1) The danger that materials may be swept onto other lands to the injury of others;
  - (2) The danger of life and property due to flooding or erosion damage;
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity to the facility of a waterfront location, where applicable;
  - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (9) The safety of access to the property in time of flood for ordinary and emergency vehicles;

## DEVELOPMENT CODE

---

- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,
  - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water system, streets, and bridges.
- d. Upon consideration of the factors of *Section 151.22.029.F.2.c* and the purposes of this ordinance, the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
  - e. Any applicant to whom a variance is granted shall be given written notice over the signature of a floodplain administrator that:
    - (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
    - (2) Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with a record of all variance actions as required in *Section 151.22.029.F.2.f* of this Article. Such notice will also state that the land upon which the variance is granted shall be ineligible for exchange of land pursuant to any flood relocation and land exchange program. A copy of the notice shall be recorded by the Board in the office of the Cochise County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

- f. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the FEMA.
3. Conditions for Variances.
- a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of  $\frac{1}{2}$  acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the procedures of *Sections 151.22.029. D and E* of this ordinance have been fully considered. As the lot size increases beyond  $\frac{1}{2}$  acre, the technical justification required for issuing the variance increases.

## DEVELOPMENT CODE

---

- b. Variances may be issued for the repair, rehabilitation, or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- c. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e. Variances shall only be issued upon:
  - (1) Showing of good and sufficient cause;
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of, the public, or conflict with existing local laws or ordinances;
  - (4) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon granting of a variance, permit or waiver for the construction of a dwelling unit or commercial or industrial structure is otherwise contrary to this section, the Board shall provide written notice to the grantees of such variance, permit, or waiver that, if the structure is a dwelling unit or business as defined by ARS 26-321, the land upon which the structure is located is ineligible for exchange of State land pursuant to the flood relocation and land exchange program provided for by ARS Title 26, Chapter 2, Article 2. A copy of the notice shall be recorded by the Board in the office of the Cochise County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.